

MEMORANDUM

May 19, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Claim of Vera Shams

DATE OF
INCIDENT: April 11, 2004

AUTHORITY
REQUESTED: \$85,446

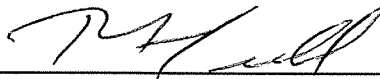
COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:

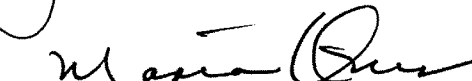
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on June 6, 2005

SUMMARY

This is a recommendation to settle for \$85,446, a claim for damages filed by Vera Shams, whose home was damaged by sewage that flowed into her home from a sewer line maintained by the County.

LEGAL PRINCIPLES

A public entity is liable for injuries caused by a dangerous condition of its property if the property was in a dangerous condition at the time of the injury, the injury was caused by the dangerous condition, the dangerous condition created a foreseeable risk of the type of injury that was suffered, and the public entity had actual or constructive notice of the dangerous condition.

A public entity is liable under the law of inverse condemnation for damage caused to property, when the damage was caused by a public improvement as deliberately designed, and constructed by the public entity, whether or not the damage was foreseeable. Inverse condemnation liability can be based on an improper maintenance plan of the public entity. A prevailing plaintiff in an inverse condemnation action is entitled to an award of reasonable attorney fees.

SUMMARY OF FACTS

On April 11, 2004, a County maintained sewer line in West Hills backed up into the lateral sewer line of Vera Shams. Raw sewage flooded into her bathroom, and spread throughout the home. The County maintained sewer line had become clogged by tree roots, which caused the sewage to travel into Ms. Shams' lateral sewer line.

The flooding caused damage to the floors, carpeting, walls, and to personal belongings.

The County had a preventative maintenance program in place in the neighborhood that consisted of semi-annual visual inspections of the sewer line. The sewer line had been inspected on December 22, 2003, less than four months prior to the incident, and no stoppages in the sewer line were seen.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Clean up services	\$ 7,500
Damage to personal property	\$ 67,000
Damage to real property	<u>\$ 42,000</u>
Total	<u>\$ 116,500</u>

The proposed settlement calls for the County to pay Ms. Shams \$85,446 for all of her claims for damages, costs, and attorney fees.

STATUS OF CASE

This matter is in the claim stage and no expenses have been incurred.


EVALUATION

This is a claim of disputed liability. Should this matter become a lawsuit and proceed to trial, a jury could find that the County's sewer maintenance plan was defective because the visual inspections were not sufficient to detect or prevent tree roots in the sewer line. If the jury finds the plan was defective, the County could be liable under an inverse condemnation cause of action.

A reasonable settlement at this time will avoid litigation costs, and a potential jury verdict that could exceed the proposed settlement.

We join with our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$85,446. The Department of Public Works concurs in the recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr